

MINUTES
SCOTTSDALE CITY COUNCIL
CITY COUNCIL MEETING
Tuesday, January 21, 2003

**The Kiva
City Hall
Scottsdale, Arizona**

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CALL TO ORDER (IN CITY HALL KIVA FORUM)

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Tuesday, January 21, 2003 in the Kiva, City Hall, at 5:04 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor David Ortega
Council Members Ned O'Hearn, Tom Silverman, Robert Littlefield, Wayne Ecton,
and Cynthia Lukas

Also Present: City Manager Jan Dolan
City Attorney David Pennartz
Deputy City Clerk Carolyn Jagger

PLEDGE OF ALLEGIANCE

Girl Scout Troop #1618 from Cheyenne Traditional School led the audience in the Pledge of Allegiance.

INVOCATION

Reverend Jack Sylvester of the Brotherhood of Man Chapel in Scottsdale offered the invocation.

ANNOUNCEMENT

Mayor Manross thanked the city's employees who donated to the Vista del Camino Food Bank this year during the holiday season.

PUBLIC COMMENT

Leon Spiro, 7814 E. Oberlin Way, applauded Congressman Hayward for requesting the opinion of the Congressional Research Service regarding the GLO patented roadway issue and suggested that Council read the opinion. He reminded everyone that on July 3, 2001, Mr. Mike Foster, the Arizona State Private Property Rights Ombudsman Attorney, advised Council against abandoning GLO easements. He explained he asked legal staff and Council if private property rights were attached to GLO easements. He pointed out that Assistant City Attorney Donna Bronski was quoted as saying, "once they are abandoned, they are gone". He questioned if City Attorney Pennartz agreed

with this statement. He mentioned two court cases that resulted in court decisions that ordered the property owners blocking GLO easements to remove all blockages and permit passage. According to the city's resolutions, the city is not abandoning any private property rights if they exist. He questioned if the city abandons public access rights to the GLO roadway easements and then approves a plat plan that approves building on the easements, if the city is giving permission to the property owner to build on the easement. He questioned who would be the liable party if another property owner exercises his private property rights by wishing to use the easement.

Patty Badenoch, 5027 N. 71st Place, explained that she and two other citizens worked diligently to provide backup information to support the Neighborhood Enhancement Commission's (NEC) proposal for the front yard parking ordinance. She explained her opinion that the public needs to know that the group met with Council in trust with the understanding that Council would make full disclosure to the public when considering their options. She noted that Council members that were unable to meet with the group were advanced all of their research. She expressed her opinion that the Planning Commission was worthless since they did not take the time to work through the issues; instead took the easy way out. She stated her belief that the issue is not the end result of Council's actions but the way in which the issue was presented by staff and how Council disseminated the information to the public. She suggested that the city could have followed Peoria's lead by sending out notices to all residents not in compliance with the new regulations. The documentation included a waiver provision that could be applied for at a nominal fee.

Pat Blakey, 8545 E. Windsor, spoke in support of the Kids Zone After School Program that is currently free to children attending Scottsdale schools. He briefly listed some of the highlights of the program while explaining that he would like to see the program continued. He urged Council to consider continuation of the program during the city's budget discussions.

Darlene Petersen, 7327 E. Wilshire Drive, wanted the supporters of the NEC's front yard parking restrictions to know that Council was given a list of 12 items that supported their recommendation. She pointed out that the group wanted to include the following: 1) the allowed parking area (35%) to be contiguous, 2) parking on desert native improved surfaces, 3) a 2' parking restriction from a curb or sidewalk and 1' from the lot line, 4) inclusion of a list of recreational vehicle names, 5) the establishment of commercial storage areas in C-3, C-4, and I-1, 6) additional parking restrictions unless required setbacks are maintained with screening, 7) 1' setback from side property with vehicle screening of 6' solid gated fence, 9) further restrictions for vehicles meeting certain criteria, and 10) the allowance for temporary parking of RVs for loading and unloading. She noted that the ordinance has one year to take effect.

Daniel Basinger, 29503 N. 107th Place, announced that the Household Hazardous Waste Collection event that was held this past Saturday was a huge success. He stated that 1,135 people participated in the event in which 24.18 tons of material was collected. He then reminded everyone that the state is experiencing a drought. Water conservationists are running a program in February, which will instruct people on how to save water and inform people of the rebate that is being offered by the city. He urged citizens who are interested to call the city for more information.

MINUTES

SPECIAL MEETINGS

REGULAR MEETINGS

Tuesday, January 7, 2003

EXECUTIVE SESSIONS

VICE MAYOR ORTEGA MOVED TO APPROVE THE TUESDAY, JANUARY 7, 2003 REGULAR MEETING MINUTES. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

CONSENT AGENDA

1. Indian School/Granite Reef Office Rezoning

Request to approve:

1. Rezone from Service Residential (S-R) to Commercial Office (C-O) on a 1 +/- acre parcel.
2. Adopt Ordinance No. 3486 affirming the above rezoning.

Location: 8399 E Indian School Rd

Reference: 22-ZN-2002

Staff Contact(s): Tim Curtis, Project Coordination Manager, 480-312-4210, tcurtis@ScottsdaleAZ.gov

2. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 6

3. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 6

4. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 7

5. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 7

6. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 7

7. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 8

8. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 8

9. Temporary Reduction of Certain Fees in Downtown

Request: Adopt Resolution No. 6238 allowing for the temporary waiver of specific development and building fees in a designated area in Downtown Scottsdale.

Staff Contact(s): David Roderique, Economic Vitality General Manager (480) 312-7601, droderique@scottsdaleaz.gov; Harold Stewart, Business Services Manager, (480) 312-2311, hstewart@scottsdaleaz.gov; Jon Chase, Principal Planner (480) 312-2578, jchase@scottsdaleaz.gov

Mayor Manross opened public testimony.

Norwood Sisson, 7431 E. Portland, stated that the city is giving away downtown fees and questioned if the fees include storm water drainage in-lieu fees.

Mayor Manross closed public testimony.

10. Annual Audit Plan for the Office of the City Auditor, Fiscal Year 2002/2003.

Request: Review and approve the annual audit plan for the Office of the City Auditor.

Staff Contact(s): Cheryl Barcala, City Auditor, cbarcala@scottsdaleaz.gov (480) 312-7867

11. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 9

12. Construction Bid Award for Traffic Calming and Pedestrian Bridge

Request: Authorize Construction Bid Award No. 03PB003, Traffic Calming and Pedestrian Bridge, to the lowest responsive bidder identified at a public bid opening conducted on January 14, 2003 at 3:00PM (See attachment No. 4). The purpose of this action is to award a contract to construct landscaped traffic calming devices at three Scottsdale neighborhood locations: Tonalea neighborhood (Oak Street to McDowell Road/ 66th Place to Scottsdale Road), E. Cholla Street (N. 64th Street to Scottsdale Road), and E. Chaparral Road (between Scottsdale Road and Hayden Road). This contract also includes a new pedestrian bridge crossing over the Crosscut Canal at the Oak Street alignment.

Related Policies, References:

- Development Review Board in August 2002 (Case No. 40-DR-2002)
- Neighborhood Traffic Management Plan – Scottsdale Transportation Department
- Engineering Services Contract No. 2001-131-COS (9/24/01)
- Preliminary Art Concept Approval by PACC (3/12/02)

Staff Contact(s): Brad Wisler, Project Mgr, 480.312.7626, bwisler@ci.scottsdale.az.us

Mayor Manross opened public testimony.

Norwood Sisson, 7431 E. Portland, questioned whom the contract is with as well as the amount of the contract.

Mayor Manross closed public testimony.

13. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 9

14. Funding approval for WestWorld Master Plan Update Environmental Assessment as required by the Bureau of Reclamation to ensure compliance under the National Environmental Policy Act (NEPA).

Request: Approve Contract Amendment No. 2001-165-COSA with BRW Inc., in the amount of \$52,526 to prepare an environmental assessment in conjunction with an update of the WestWorld Master Plan, and; Authorize the utilization of Basin Management Funds in the amount of \$52,526 to fund this contract amendment.

Related Policies, References: Council Action on March 18, 2002 authorized awarding contract (#2001-165-COS) to BRW Inc./Gralla Architects to update the WestWorld Master Plan.

Staff Contact(s): Brad Gessner, WestWorld General Manager, 480-312-6825, bgessner@Scottsdaleaz.Gov; Annette Grove, Project Manager, 480-312-2399, Agrove@scottsdaleaz.gov

15. REMOVED FROM THE CONSENT AGENDA. SEE PAGE 10

COUNCILMAN SILVERMAN MOVED TO **APPROVE** CONSENT ITEMS 1, 9, 10, 12, AND 14. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION

2. Olympic Private School Facility Conditional Use Permit

Request: Approve a conditional use permit for a private charter school on a 1.8 +/- acre parcel with Industrial Park (I-1) zoning

Location: 9318 N 95th Way

Reference: 26-UP-2002

Staff Contact(s): Jerry Stabley, Senior Development Planner, 480-312-7872, jstabley@ScottsdaleAZ.gov

Mayor Manross opened public testimony.

Norwood Sisson, 7431 E. Portland, noted that he is in favor of the school, however, questioned its impact on traffic. He stated his desire to see the city do something to improve the traffic situation.

Mayor Manross closed public testimony.

3. Montacino-McDowell Mountain General Plan Amendment and Rezoning

Request to approve:

1. A non-major General Plan amendment from Urban Neighborhoods to Suburban Neighborhoods on a 6.32+/- acre parcel located at 12325 E Shea Boulevard.
2. Adopt Resolution No. 6225 affirming the above general plan.
3. Rezone from Multi-Family Residential, Environmentally Sensitive Lands (R-5 ESL) to Single Family Residential, Environmentally Sensitive Lands (R1-5 ESL) with amended development standards and the termination of an existing development agreement on a 6.32+/- acre parcel.
4. Adopt Ordinance No. 3487 affirming the above rezoning and amended development standards.
5. Adopt Resolution No. 6229 terminating the existing development agreement No. 980108.

Location: 12325 E Shea Boulevard

Reference: 8-GP-2002 & 23-ZN-2002

Staff Contact(s): Tim Curtis, Project Coordination Manager, 480-312-4210, tcurtis@ScottsdaleAZ.gov

Mayor Manross opened public testimony after noting that the applicant requested that this item be continued.

Leon Spiro, 7814 E. Oberlin Way, displayed a graphic illustrating the GLO easement lots that were sold in the Shea corridor. He reminded everyone that tonight's meeting is being held in accordance with Arizona State Statutes. He stated that the original zoning in the area is R1-43, which is about 1 house per acre. He noted that a previous Council abandoned the public access rights to the assemblage and permitted an assisted living facility to be constructed on the site. Due to the permitted number of residents in the assisted living facility, the applicant is requesting an increase in density for his single family housing development that will be located on the same number of acres as the assisted living facility. He pointed out that the developer would have been able to build 6 homes on the acreage, however, is now asking for the ability to build 28 homes. He pointed out that his only concern is with the abandonment of GLO easements. He referenced two court cases and Planning Commission members

who suggested that the city require a disclaimer provision absolving the city of any liability if there is ever litigation regarding private property rights associated with the easements.

Norwood Sisson, 7431 E. Portland, expressed his opinion that this case would simply supply more “vanilla housing for rich, white, middle-aged people”.

Mayor Manross closed public testimony.

COUNCILMAN SILVERMAN MOVED TO CONTINUE ITEM 3 TO MARCH 4, 2003.
COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

4. Olympic Private School Facility Text Amendment

Request to approve:

1. A text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) to amend Article V., District Regulations., Section 5.1803., Use Regulations. to allow for private and charter schools within the Industrial Park (I-1) District by conditional use permit.

2. Adopt Ordinance No. 3488 affirming the above text amendment.

Location: 9318 N 95th Way

Reference: 5-TA-2002

Staff Contact(s): Jerry Stabley, Senior Development Planner, 480-312-7872, jstabley@ScottsdaleAZ.gov

5. De-annexation to Fountain Hills

Request: Adopt Ordinance #3485 to de-annex Tracts J, K and P of Condillera at CopperWynd (1.69 acres) to the Town of Fountain Hills.

Location: Northwest and South of Copperwynd Drive at Eagle Ridge Drive

Reference: 1-AN-2002

Staff Contacts: Bill Verschuren, Senior Planner, 480-312-7734, bverschuren@ScottsdaleAZ.gov

Mayor Manross opened public testimony.

Norwood Sisson, 7431 E. Portland, explained that he would like to see the city abandon Eagle Ridge Drive adjacent to the property. He felt that Fountain Hills or Paradise Valley should bear the burden of supporting the infrastructure if they want the property.

Mayor Manross closed public testimony.

6. Grant award for crime laboratory DNA equipment and supplies

Request: Adopt resolution No. 6218 authorizing the Police Department to accept the National Institute of Justice No Suspect Casework DNA Backlog Reduction Program grant from the Arizona Department of Public Safety in the amount of \$114,954 for the purchase of a genetic analyzer, a 2700 Thermocycler and related DNA supplies. The equipment and supplies will be used to process the Police Department's 'no suspect' sexual assault backlog casework and identify possible suspects using DNA profiling.

Reference: Resolution No. 6218

Staff Contact(s): Steve Garrett, Forensic Services Division Manager, Police Department
480-312-5280, sgarrett@ci.scottsdale.az.us

7. Award for Juvenile Accountability Incentive Block Grant

Request: Adopt resolution No. 6219 authorizing the Police Department to accept the Juvenile Accountability Incentive Block Grant, Year 5, from the Governor's Division for Children in the amount of \$74,387. The funds will be passed through to Scottsdale Prevention Institute (SPI), Contract No. 2003-003-COS, to fund coordinated efforts to address juvenile crime through a wide range of prevention, intervention and treatment strategies.

Reference: Resolution No. 6219 and Professional Services Contract No. 2003-003-COS.

Staff Contact(s): Carla A. Murillo, Budget Analyst, Police Department
480-312-5202; cmurillo@ci.scottsdale.az.us.

Mayor Manross opened public testimony.

Norwood Sisson, 7431 E. Portland, explained that the city should conduct program evaluations if citizens want quality programs. He stated his opinion that there are several programs that are approved by the Department of Education, therefore, there is nothing special about the approval rating.

Mayor Manross closed public testimony.

*****8. Taliesin West Destination Attraction Development, Establishment of a Conservation Easement, and bond reimbursement resolution**

Request:

- 1) Authorize a change in the use of \$517,350 previously approved and funded bed tax capital funds from investment in a Frank Lloyd Wright Visitor Center at Taliesin West to a modified project comprised of new destination attraction features at Taliesin West and in downtown Scottsdale, and for the acquisition of a conservation easement within the McDowell Sonoran Preserve boundary, currently owned by the Frank Lloyd Wright Foundation, as recommended by the Tourism Development Commission at its December 17, 2002 meeting
- 2) Authorize staff to negotiate a contract implementing the elements of the proposal in substantial conformance to the December 13, 2002 staff report to the Tourism Development Commission (Attachment No. 1).
- 3) Adopt Resolution No. 6244 declaring the City's intent to advance funds not to exceed \$15,000,000 for the Taliesin West, Loloma Museum, and Canal Bank Improvement Projects. The approval of Resolution No. 6244 will allow the City to be reimbursed for funds advanced for these three projects from future bond proceeds as described by U.S. Treasury Regulation Section 1.150-2.

Staff Contact(s): Kathy Carlisle O'Connor, Tourism Development Manager, Economic Vitality Department, 480-312-7057, kcoconnor@scottsdaleAZ.gov; Robert Cafarella, Director of Preservation, Preservation Department, 480-312-2577, rcafarella@scottsdaleAZ.gov; Rebecca Eickley, Financial Services Specialist, Financial Services Department, 480-312-7084, reickley@scottsdaleAZ.gov.

Mayor Manross opened public testimony.

Norwood Sisson, 7431 E. Portland, noted that once again, the city has a problem since it gave Frank Lloyd Wright money to build something that was never constructed.

Lyle Wurtz, 6510 E. Palm Lane, noted that in the current state of the economy, the city cannot afford to throw away over ½ million dollars. He felt that if the city grants this money to Taliesin West, they would have to generate \$60 million in tourist dollars just to break even with what the city give them. He questioned if the city is being paid interest on the money the city grants to projects out of the general fund while bonds are being issued.

Patty Badenoch, 5027 N. 71st Place, explained that she is confused about how this money is being allocated. She requested clarification. She expressed her desire to see the emphasis placed on the downtown area itself due to the city's budget constraints.

Mayor Manross closed public testimony.

Dave Roderique explained that the dollars that are being proposed are for a combination of improvements at Taliesin to enhance the destination as well as for the operation of a downtown facility. Taliesin suggested opening a storefront location that would highlight Taliesin and the works of Frank Lloyd Wright. Staff believes this is a way to enhance the downtown as well.

11. Amended Agreement for Delivery of Incentive Priced Excess Central Arizona Project Water for Groundwater Recharge

Request: Adopt Resolution No. 6226 authorizing the execution of Agreement No. 2003-004-COS, and authorize execution of Agreement No. 2003-004-COS with the Central Arizona Water Conservation District (CAWCD) for delivery of incentive-priced excess Central Arizona Project (CAP) water for groundwater recharge purposes.

Staff Contact(s): Beth Miller, Water Resources Advisor, 480-312-7894, emiller@ci.scottsdale.az.us

Mayor Manross opened public testimony.

Lyle Wurtz, 6510 E. Palm Lane, explained that he would like more information on this item. He questioned if this project will cost citizens more money and why the city isn't raising water from Planet Ranch. He urged Council to talk about Planet Ranch at a future meeting. He questioned how much water goes back into the wells/reservoir from the recharge process. For example: is it one gallon out of a thousand?

13. Authorize the acquisition of real property at 7234 and 7240 East Second Street

Request: Adopt Resolution No. 6224 authorizing the acquisition of real property at 7234 and 7240 East Second Street from the Noriega Family in the amount of \$235,000.00. Properties will be used to enlarge an existing surface parking lot.

Related Policies, References: At the October 28, 2002 Council study session, staff presented a progress update on the Downtown Scottsdale Master Parking Plan. The update included a recommendation that three sites, including the Noriega properties, in the Old Town District be further evaluated for the addition of parking facilities.

Ownership of the Noriega property, which includes two vacant homes, will provide 35 additional parking spaces in the Old Town District.

Staff Contact(s): Madeline Clemann, Parking Program Manager, mclemann@ci.scottsdale.az.us, (480) 312-2732; Jean Morris, Right of Way Agent, jmorris@ci.scottsdale.az.us, (480) 312-7853; Ron King, Asset Management Coordinator, rking@ci.scottsdale.az.us, (480) 312-7042

Councilman Ecton explained that he would like to let the public know that this item talks about purchasing a lot for \$235,000. The houses on the lot will be razed so the area can be converted into a parking lot. He questioned the cost of removing the houses and preparing the lot for parking. He noted that as a result of his questions, staff informed him that the cost would be \$65,000. Therefore, the city is committing to an expenditure of \$300,000. It would bring the cost of the 35 spaces to approximately \$8,800 per space. He questioned the normal cost for a parking space. Deputy City Attorney Edward Gawf explained that if you add land and construction costs, the amount would be within the range for expected costs. He further explained that between \$9,000-\$10,000 is a normal cost estimate for surface parking if land and construction costs are included.

Councilman Ecton requested that, in the future, staff include all the information pertaining to each item presented to Council.

Vice Mayor Ortega pointed out that the property is known as the Noriega property. Harvey Noriega was one of the original cowboys of Scottsdale with his family being one of the founding families. He noted that there is a possibility that the home can be saved by investigating the possibility of moving it to another location since it is an historic treasure. At the very least, he felt the city would erect a monument to the Noriega family.

15. Land acquisition for the McDowell Sonoran Preserve and reimbursement agreement

Request: Adopt Resolution No. 6232 authorizing purchase in the amount of \$955,300 for the 19.01-acre Parcel No. 216-75-017B, located at 28445 N. 126th Street, for the McDowell Sonoran Preserve. The purchase price represents the property owner's December 2002, counter offer to the city's June 2001, offer to purchase for \$855,450; and

Adopt Resolution No. 6131 declaring the city's intent to advance funds not to exceed \$50,000,000 for the purchase of property for the McDowell Sonoran Preserve.

Related Policies, References: The parcel is within the expanded Recommended Study Boundary approved in August 1998, by City Council and in November 1998, by voters. The acquisition of this land supports City Council Broad Goal B: Preserve the Character and Environment of Scottsdale, and two sub-goals under Goal B: Complete the acquisition of lands within the adopted Preserve boundaries; and Protect natural resources, open spaces and views.

Staff Contact(s): Robert J. Cafarella, AICP, Director, Preservation Division, 480-312-2577 (rcafarella@ci.scottsdale.az.us)

Mayor Manross opened public testimony.

Lyle Wurtz, 6510 E. Palm Lane, wondered who pays the interest on this money. He questioned if the city is making a mockery out of the people who have settled earlier at a lesser price by accepting a counter offer without fighting. He inquired if real estate values in the city have declined since the city was paying more for preserve land than it currently is paying.

Leon Spiro, 7814 E. Oberlin Way, questioned the location and parcel number of the property. He wondered if the law firm of Graham and Associates was involved in this case. He explained that the city paid almost \$40,000 per acre for other property that was not contested by the owners, while the city is going to pay \$50,000 to someone contesting the sale. He stated his belief that it sounds as though the city has cheated all the other property owners. He urged Council to deny

the counter offer and keep the price at \$40,000. If the owners win in court, at least they would have had to wait for their money.

Mayor Manross closed public testimony.

Mayor Manross noted that the property is located at 28445 N. 126th Street. Don Meserve identified the parcel number as 216-75-017B. He explained that Graham and Associates have not been involved in the case since it has been a negotiated purchase price.

COUNCILMAN ECTON MOVED TO **APPROVE** CONSENT ITEMS 2, 4, 5, 6, 7, 8, 11, 13, AND 15. VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

REGULAR AGENDA

*****16. Selection of Developer and Project for the former Smitty's site at Granite Reef and McDowell Roads**

Agreement for Exclusive Right to Negotiate, until May 20, 2003, with the RED Group LLC and Southwest Retail Group, Inc. as the selected development team from the Request for Proposal submittals for approximately 8.8 acres at NW Corner of Granite Reef and McDowell Roads.

Related Policies, References: Council action to approve purchase of site on January 8, 2001; Council presentation of May 14, 2001 regarding community desires for the site and possible mixes of use and direction to work with community groups on potential for their use of the site; EDAW's Master Planning Contract approval on February 19, 2002; Updates to Council on May 13, 2002 and July 1, 2002 with direction to move forward with the Developer RFP.

Request: David Roderique, General Manager Economic Vitality Department, 480-312-7601, droderique@scottsdaleAZ.gov;
Laurel W. Edgar, Economic Vitality Department, Revitalization Manager, 480-312-7313, ledgar@scottsdaleAZ.gov

Dave Roderique explained that item 16 is regarding the selection of a developer for the project at the former Smitty's site, which was purchased by the city approximately one and one-half years ago. Since that time, the city has been going through a process to work with the neighborhood first to identify potential uses for the site. The uses identified through the community outreach process were presented to the development community where a number of responses were received through the city's Request for Proposal process.

Laurel Edgar presented the information in the form of a slide presentation that has been summarized below.

**GRANITE REEF & McDOWELL ROAD REVITALIZATION
Developer Selection and Approval of Exclusive Right to Negotiate**

Council Direction

- Send out Request for Proposals to Development Community
- Share Master Planning Effort Information
 - Community Input
 - Variations on Site Plans
 - Shared Parking Requirements
 - Demographic & Market Information
- Ask Developers to propose land uses and land value

RFP PROCESS

- October 11, 2002 RFP out to 250 Development and Architectural entities
- December 10th, 2002 5 Proposals Received
- December/January Staff Reviews
- January 7th, 2003 Interviews of Development Teams
- January 13, 2003 Neighborhood Open House

Community Services of Arizona/Campbell Hogue & Associates, Inc. & A & C Properties

- 160 senior, medium-income, rental units with optional service package
- 15,000 to 18,000 sq ft Retail
- \$1.470,000 cash upfront plus small annual lease payments

Pulte Homes Corporation

- 72 for-sale single-family homes, 1 & 2 story
- Average sales price of \$174,000
- Will pay \$1,776,640, plus \$140,000 towards offsites

RED Group LLC and Southwest Retail Group, Inc.

- 200 senior, independent living apartments, 2 & 3 story
- 10,000 sq. ft. of neighborhood/ convenience retail
- Will pay \$3,230,000 plus \$120,000 towards costs for shared recreational amenities

Starpointe Communities LLC.

- 100 for-sale condominiums, with internal garages, 1 & 2 story
- Sale prices between \$110,000 and \$155,000
- Will pay \$2,050,000

Trend Homes of Arizona and AVB Development Partners, LLC

- 125 attached for-sale houses with internal garages, 2 & 3 story.
- Sales prices range from \$135,000 to \$150,000
- 12,000 sq ft of neighborhood retail
- Will pay \$3,000,000

Selection Criteria

- Project Proposed - Overall quality of project & site plan
- Economic Terms - Anticipated cash to the City, financial capability
- Developer Experience - Quality and success of other developments, Depth of firm's capabilities
- Developer Pipeline & Capacity
- City Factors - Community support, public benefit, interaction with Senior Center/Stagebrush Community Theater, timeframe

Open House Comments

- Preference for Senior Housing
- Preference for Retail, would like to see more
- Design Treatments Important – landscaping, buffering, heights, alley
- Strong statements both for and against affordable product
- Do not delay project – move forward
- Generally, RED Group & CSA/CHA were most favored Site Plans

Staff Evaluation

FIRM	POSSIBLE POINTS	Community Services of AZ, Campbell-Hogue	Pulte Homes	Red Group	Starpointe	Trend Homes
Project Proposal	30	25	17	24	16	20
Economic Terms	25	13	16	21	18	21
Developer Experience	20	17	17	15	15	16
Developer's Other Projects & Capacity	5	3	6	5	5	6
City Factors	20	16	10	17	11	15
TOTAL POINTS	100	74	67	82	66	78
RANK		3	4	1	5	2

In response to questions, Ms. Edgar noted that the 6 rating for Trend Homes in the line item for capacity should be a 4 not a 6.

Ms. Edgar noted that none of the five proposals received include a sit down, stand alone restaurant. She stated her belief that developers believe that this location is too far east to support this type of business since most major chains would prefer to locate along Scottsdale Road.

RED Group LLC and Southwest Retail Group, Inc.

- Good site plan, integrating uses & neighborhood
- Most cash to City
- Provides market rate senior housing & retail
- New company

Staff Recommendation

- Approve RED Group, LLC and Southwest Retail Group, Inc. as the development team for the private portion of the Granite Reef and McDowell Road Site and enter into an Exclusive Right to Negotiate for a period of 120 days to expire on May 20, 2003.

Council Options

- Council may accept the staff recommendation;
- Council may choose another development team;
- Council may reject all 5 proposals and send out another RFP with different parameters;
- Council may direct staff to send the property to auction;
- Council may continue to hold 8.8 acres while moving forward with the Senior Center and wait for a better economic time.

Next Steps

- City & Developer sign Exclusive Right to Negotiate letter
- Staff and Developer work through
 - Due Diligence
 - Site Plan Adjustments with Senior Center Architectural Team
 - Key Business Points
 - Draft Development Agreement
- Development Agreement comes to Council in May/June
- Zoning & Design Review Process
- Architects Complete Design/Financing Process
- Construction Documents Review/Approval
- Land Closing/Permit Pulling/Construction Begins

Community Services of Arizona/Campbell Hogue & Associates, Inc. and A & C Properties

- Good site plan, integrating uses & neighborhood
- Least cash to City up front, financing takes time
- Good experience & capacity
- Provides median-income senior housing & retail

Pulte Homes Corporation

- Site plan shuts off neighborhood
- Low cash to City
- Highest capacity & experience
- Provides new high-end housing

- No retail

Starpointe Communities LLC.

- Site plan shuts off neighborhood
- Low cash to City
- Very good capacity & experience
- Provides high end condos at median pricing
- No Retail

Trend Homes of Arizona and AVB Development Partners, LLC

- Open & integrated site plan, but dense
- 2nd highest cash to city
- Good experience, busy pipeline
- Provides good entry level housing & Retail

Mayor Manross opened public testimony.

Lyle Wurtz, 6510 E. Palm Lane, stated his belief that the city is going to live up to its reputation of handling out money to developers. He felt this project is one of the most blatant, but too often typical, anti-citizen taxpayer proposals being pushed by what seems to be a self-serving Revitalization Department. After months of costly feel good studies and public meetings, the citizens laid out what they wanted on the site. He stated that citizens did not want low cost housing although he was afraid that is what they are going to end up with. He expressed his opinion that there is no correlation between what the citizens and the developers want to place on the site. He stated his belief that due to the deliberate neglect of south Scottsdale by the city, there is a rising crime problem that will keep many people away from evening activities on the site. He wanted the city to guarantee that this project isn't just an attempt to make the old senior center location available to some commercial developers. He stated his desire to see guarantees in writing that the old senior center property would always remain city owned. He explained that he would rather see the Smitty's site remain undeveloped until a suitable development plan could be developed.

Norwood Sisson, 7431 E. Portland, stated his belief that the city is setting this item up to be another one of the "forever deals". He pointed out some discrepancies in the backup information presented by staff. He explained that the action is being taken under the Los Arcos Redevelopment Plan that, in his opinion, is a worthless piece of trash and does not comply with Arizona State Statutes. He pointed out that the plan is for commercial use, not residential. He stated his opinion that the city has two legal options instead of the five illegal options staff presented. He explained that the city could: 1) use the information gathered tonight to write a legitimate redevelopment plan or, 2) terminate the redevelopment area, auction off the 8+ acres, build the senior center, and be done with it.

Gladys Olson, 7312 E. Palm Lane, expressed concern with what is going on. She then commended the Mayor and Council members for their willingness to serve the community as elected officials since it is not an easy job. She asked that Council try to perceive what it is like to live on less than \$10,000-\$12,000 per year. She explained that she dreams of walking to the senior center when she can no longer drive. She expressed confidence that Council will not look at just the dollar figure to make their decision. She noted that she has attended the previous public meetings on this issue and read excerpts from the information that was distributed at the meetings regarding each developer. She begged Council to think kindly of low-income citizens who are not a menace to society and have something to contribute.

Darlene Petersen, 7327 E. Wilshire Drive, explained that she picked the “RED” Group before staff did. She stated her belief that the city needs to make a decision of whether the city is going to keep the current senior center. She expressed her opinion that the closing of the current senior center would impact the number of people who would be using the new senior center; therefore, more room would be needed at the new site. She explained that she wants to see a horseshoe pit and shuffleboard on the site for the senior citizens especially if senior housing is included on the site.

Richard White, 10815 N. 84th Street, explained that he spent a year planning a future search at Council’s request where housing options were explored within the city. One of the strong points that came across from the diverse community was that there was a need for accessible housing for seniors. He pointed out that some of the seniors in the community are worried if they will be able to continue to live in the city. He stated his belief that the plans that include some type of senior housing would be more appropriate on the site. He expressed his opinion that the CSA plan makes more sense in the long run. He acknowledged that, in today’s economy, there is a concern regarding the return on investment on the property although that is not the only consideration that should be given when making this decision. He questioned if the RED Group’s proposal would allow affordable rent for the proposed units.

Leigh Ann Stuckey, 1416 N. 78th Street, explained that she is a local artist. She pointed out that businesses from Scottsdale Road to the former Smitty’s location are closing. She offered to conduct new surveys focusing on what the people actually need and want on the site as well as the emotional tone in the area. She felt the new information would help determine what should be done.

Mayor Manross explained that a substantial amount of studies and analysis of the area have been conducted over the last few years. She expressed her belief that Council understands the market and the economic feasibility of the different proposed uses. She felt Council would be ready to move forward at this time.

Waltraud Martin, 8318 E. Holly St., explained that she has a number of questions since she sees too many closed storefronts, empty malls, nightclubs, and empty restaurants. She expressed her opinion that the Smitty’s site is too small to do anything viable. She wondered if anything could be considered that would reduce the density in the area. She felt that the people who might want to live on the site wouldn’t want to live in a fish bowl. She expressed concern that the proposed density would strain both water resources and the infrastructure. She felt that a better solution than what has been offered thus far could be developed.

Mayor Manross closed public testimony.

Mayor Manross explained that it is Council’s intention to help revitalize the area. Hopefully, this project will be a catalyst to continue the revitalization efforts. She explained that Council understands the concerns regarding the southern part of the city.

Ms. Edgar clarified the estimated cost per unit for the RED Group plan for Mayor Manross. She explained that the proposed rent for 1-2 bedroom studios range from \$650 to \$850 per month.

Vice Mayor Ortega explained that he sees this as a customized area that needs a customized solution with the senior center as the anchor. In response to his request for more information, a representative from the RED Group explained that the site plan was designed by considering the entire community as a whole. Regarding the aesthetics of the project, the architects of their group must sit down with the retail architects and the city’s architect to determine a common theme since there is not currently an identifiable theme in the area. He noted that the RED Group has decided to be the lead in the development

agreement. Southwest Retail Group has indicated strong interest and has agreed to acquire the retail side of the project from the RED Group at a predetermined amount. He indicated that RED Group would guarantee the purchase of the retail. He further noted that there are three partners within RED Group, including a real estate transactional attorney, which should enable the group to proceed in a timely manner.

In response to additional questions from Vice Mayor Ortega, the president of the RED Group displayed graphics indicating a comprehensive rent study illustrating 6 properties in the Phoenix metro market he felt were comparable with the Smitty's site. He explained that all the sites, as indicated on his graphic, were within the average household income range.

Councilman Ecton questioned the square footage of the area planned for retail. The RED Group indicated that the area would be approximately 10,000 sq. feet with a typical configuration.

In response to questions from Councilman Littlefield, Ms. Edgar explained that there would be 120 days to complete the first step in the process. She confirmed that the due diligence work frequently requires outside professionals to update surveys, review the hazardous waste study, etc. requiring 6-8 weeks. She noted that the developer is responsible for the cost of the updates. In addition to the time it will take to update the information, staff would need time to respond to any changes.

Responding to additional questions from Councilman Littlefield, Ms. Edgar estimated that a zoning application would be submitted in June or July with the process taking approximately 4-6 months. Once Design Review approval is received, the architects would begin the design documents while the developer works on acquiring financing. This process typically takes another 4-6 months. The timeline for construction document review really depends on how many times revisions are necessary; however, is typically a 6-8 week process. Finally, the land closing, permit pulling, and beginning of construction should take between 30-60 days.

Councilman Littlefield asked for confirmation that the lead-time from tonight should be approximately one and one-half years. In response to additional questions, Deputy City Manager Ed Gawf explained that the schedule that was just outlined is pretty reasonable. He stressed that the key is to do the project right and is even more important than completing the project quickly.

Vice Mayor Ortega expressed his belief that this location is a vital part of the city. He explained that the city is looking at a reinvestment on the city's part with the senior center of around \$10 million. Of that figure, approximately \$1.8 million is for the land, therefore, that is the amount that the capital account would reimburse the city's fund. Along with that, private investment of at least \$20 million will be made. He felt it is important to look at all areas of the city as well as identify where the city has invested money. He pointed out that there would be approximately 200 units built in the Waterfront project with a price of up to \$2 million each. Coincidentally, the city has made an investment of approximately \$4 million in the area. He also identified the Loloma project, which is supposed to have approximately 240 living units ranging in price from \$280,000 to \$380,000. Part of the land exchange and improvement amounts to an internal investment of approximately \$6 million.

Councilwoman Lukas noted that she was very supportive in purchasing the site in 2001 since she felt it could be a real trigger for economic vitality in the area. She stated her belief that all the responses to the city's Request for Proposal were of high quality, which says a lot about Scottsdale. She explained that she has attended a number of meetings regarding the site and spoke with a lot of citizens who were all very anxious to get the project started. Since citizens indicated very strong support of a restaurant of some kind, she felt it is a very important element of any site plan. She stated her understanding that the

proposals are a reflection of the market. She pointed out that everyone likes the senior center in all of the plans while realizing that the center is a very large investment that the city is making in this part of the city.

Councilwoman Lukas expressed support for the RED Group proposal for several reasons. First, it was preferred by the residents and is an excellent site plan. She stated her opinion that senior housing is important, while retail included in the proposal is a plus. While the amount of money the developer is willing to pay the city is not her first concern, she noted that in tough economic times, the economic stabilization fund needs to be replenished for other projects. On balance, she felt the RED proposal is solid and would be embraced by the community.

Councilman O'Hearn stated that this has been an extensive and almost an exhausting process. He stressed that the city is somewhat restricted in what it can do on the site due to economic reality. He explained that all five plans received from the developers are good and would work on the site. He firmly believed that there is no such thing as a right or wrong decision tonight since something good for the neighborhood would be accomplished with approval of any of the five plans. He explained that the city must decide if there should be housing included in the plan and, if so, if the housing should be owner occupied or rental units. He didn't believe there is any firm commitment either way on this issue. He expressed his opinion that the retail component is critical to this particular site. He suggested that the restaurant element might be able to be enlarged at a later date if one is included in the design. He added that the city cannot overlook the recovering of taxpayer funds although it is not the only consideration.

Councilman O'Hearn stated his support of the Trend Homes alternative since several components of the proposal are appealing to him. He explained that he likes the fact the plan includes reasonably priced housing that would accommodate different age and income brackets. He felt the developer would be willing to work with the city on the density issue.

In response to a request from Councilman Silverman to let representatives from all the developer groups speak, Ms. Edgar explained that the only other developer represented in the audience tonight that has not had an opportunity to speak is Pulte Homes.

The representative from Pulte Homes explained that he would like Council to consider the fact that Pulte Homes is the largest homebuilder in the world. He stressed that his company has a very strong balance sheet and, therefore, has the ability to close when the time comes. Along with the financial strength Pulte Homes offers, their homes are top quality. He explained that Pulte Homes would be a strong developer with a sensitive plan, which considers the neighborhood needs. He noted that their plan ensured that all the homes around the perimeter would be one-story. Taliesin architects were hired to develop their product. He stated his belief that this is the type of excitement that the area needs. He explained that his plan doesn't include senior housing instead opting to bring in a more diverse buyer profile. He suggested that if the city is looking to revitalize the area, a diverse buyer profile would be the way to go.

Councilman Silverman explained his belief that the biggest difference between the RED Group and Trend Homes is the ownership situation. He stated his preference for ownership over rental properties since he felt it would be better for the community.

Councilman Ecton agreed that ownership would be preferable over rental units. He noted that he has studied all of the proposals and stated his support of the Trend Homes' proposal.

Vice Mayor Ortega explained that the city is very glad that the developers came forward since it took a lot of time and money to prepare their proposals. In terms of Pulte Homes' product, they are looking at

payment to the city of \$1.77 million plus another \$140,000 totaling under \$2 million for 72 homes. He pointed out that according to his calculations, it would be like the city subsidizing \$20,000 per lot. The Pulte Homes' total would be at least \$1.5 million less than the RED Group.

Vice Mayor Ortega stressed that people living in apartments vote, they are citizens, use libraries, participate in the government, and are no lesser involved than a homeowner. He pointed out that some people at the age of 60 don't want a 20-year mortgage.

Councilman Littlefield explained his belief that the city has a fiscal responsibility to recover as much money as possible since the property was purchased with taxpayer money. In addition, the number one city responsibility is to place an economically feasible project on the site that is best for the area. He pointed out that some retail would be appropriate for the site and is supported by the citizens. He felt that in addition to the senior center and the theater, the development would be mostly housing, although there is still a question of whether rentals or owner occupied homes are preferable. Due to the area and the revitalization it needs, he stated his support of owner occupied homes in the Trend proposal.

Councilman Littlefield explained that there has been a lot of discussion about the future of the current senior center. He stated his support for opening the new senior center and keeping the old Civic Center Senior Center open.

Councilwoman Lukas questioned what was meant in staff's presentation by "busy pipeline". Ms. Edgar explained that it was meant to indicate the developer's current workload. For example, Trend Homes has been working with the City of Phoenix for the past year on a 180-acre project; therefore, their pipeline is very busy.

Mayor Manross explained that she prefers owner occupied homes; however, felt that the benefits of the REG Group's plan out weights its negative aspects. She noted that the area around the site is currently composed primarily of single-family owner occupied homes so there isn't an over abundance of rental properties in the area. She felt the development would be a terrific benefit to the community, although none of the development plans are perfect. She agreed that it is important that the city recoup a good portion of the money it has invested, although that is not her number one concern. She stressed the importance of the design element of whatever is built on the site since it would help to maintain the quality of life. She urged whichever developer is chosen to make the restaurant happen.

VICE MAYOR ORTEGA MOVED TO APPROVE THE AGREEMENT FOR THE CITY'S EXCLUSIVE RIGHT TO NEGOTIATE UNTIL MAY 20, 2003 WITH THE **RED GROUP LLC AND SOUTHWEST RETAIL GROUP, INC. AS THE SELECTED DEVELOPMENT TEAM FROM THE REQUEST FOR PROPOSAL. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH FAILED 3/4 (T.S., W.E., R.L., N.O.).**

Councilman Ecton expressed his opinion that a busy pipeline could be a positive thing since the developer would have suppliers set up and have a ready available source for many things. He also pointed out that the Trend Homes proposal would be a partial solution to the service industry people who wish to purchase a home and find housing limited.

COUNCILMAN O'HEARN MOVED TO APPROVE THE AGREEMENT FOR THE CITY'S EXCLUSIVE RIGHT TO NEGOTIATE UNTIL MAY 20, 2003 WITH **TREND HOMES OF ARIZONA AND AVD DEVELOPMENT PARTNERS, LLC. AS THE SELECTED DEVELOPMENT TEAM FROM THE REQUEST FOR PROPOSAL. COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 4/3 (C.L., M.M., D.O.)**

17. Management Services Agreement between the City of Scottsdale and the Scottsdale Cultural Council for Management of Art/Cultural Services in the City.

Request: Consider extension of the Amended and Restated Management Services Agreement, Contract #970044, between the City of Scottsdale and the Scottsdale Cultural Council or provide other direction to City staff.

Related Policies and References: Amended and Restated Management Services Agreement, contract 970044, dated October 7, 1997.

Staff contact(s): William Exham, General Manager, Community Service Department, 480-312-2377, bexham@scottsdaleaz.gov

Bill Exham explained that this case is concerning the Cultural Council contract. The Cultural Council is a non-profit 501C Corporation that is under contract with the city to plan, manage, and operate the city's arts and cultural facilities and programs. The organization oversees the Center for the Arts, the Scottsdale Museum of Contemporary Art, the city's Public Arts Program, and renovation of the Scottsdale Mall. It manages the Scottsdale art collection as well as providing a variety of special events and educational programs related to the arts.

Mr. Exham briefly gave the history of the arts and cultural program in the city. He explained that as the city grew, the variety of groups involved in the arts and cultural programs began to have difficulty identifying which organization should handle which tasks. In an attempt to clarify the issues, Council hired a consultant and requested that a task force review the findings and make recommendations. One of the group's recommendations was to form a non-profit organization to manage the arts and cultural affairs in the city; thereby, the Cultural Council was formed.

In the initial year of the Cultural Council's contract, the city funded approximately 60% of the Cultural Council's budget. Mr. Exham explained that the contract was renegotiated in 1997; however, the contract expires in June of this year. There are two, five-year renewal clauses in the contract. Tonight, staff is looking for guidance from Council on how they would like that to happen. If neither party gives written notice that they would like to renegotiate or cancel the contract, the contract will be automatically renewed for five years.

Currently, the city is providing approximately \$2.8 million to the Cultural Council contract to enable the organization to carry out its responsibility. The Cultural Council provides approximately \$6 million in addition to the money provided by the city. He pointed out that the city's contribution is currently approximately 30% with the Cultural Council raising approximately 60% to operate the facilities through earned revenue, ticket sales, etc.

Mayor Manross opened public testimony.

Marion Murray, (no address given), explained that children, animals, literature applied in performing arts, and citizen driven local government provides her the most pleasure. In today's economy, she urged Council to consider the actual needs of citizens. She expressed doubt that this is the time to enter into a five-year contract particularly when the city is unsure of its budget deficit. She urged Council to be careful when making their decision.

Patty Badenoch, 5027 N. 71st Place, expressed concern about the approach the city takes when dealing with the Cultural Council. She explained that she doesn't understand why the Cultural Council maintains such a high level of power. She stated her desire to see a change in direction that places greater emphasis

on character and taste. She felt that all too often, the Cultural Council's selection process is predicated on pet projects and contracts that do not necessarily reflect the city.

Lyle Wurtz, 6510 E. Palm Lane, stated his belief that money isn't always the most important factor in every decision; however, a lot of the city's money gets thrown away on studies. He felt that one of the most wasteful expenditures in the city is the Cultural Council. Especially during hard economic times, money could be saved from the Cultural Council. He pointed out that there is no low cost housing up north; therefore, the money could be applied to a housing project in the northern part of the city. He stated his opinion that the city must "get real" since this contract is wasting money.

Mayor Manross closed public testimony. An additional comment card was received from a citizen opposing the contract extension who did not wish to speak.

John Berry spoke as a representative for the Cultural Council since he serves as Chairman of Board of organization. He explained that the contract is an investment in the community and in the arts. For every dollar that the city contributes, it is returned three fold. He pointed out that every year, over 48,000 school children are able to see a live performance because of the Cultural Council that they would have not otherwise been able to see. He noted that the organization is proud of the public art along the freeways. He explained that the contract requires financial audits conducted in accordance with generally accepted accounting principles and are submitted to Council annually. The organization also reports to the city twice a year. He noted that the Cultural Council has not requested to renegotiate the contract and would like to move forward with the city for the next five years.

In response to questions from Councilman Littlefield, Mr. Berry explained that thanks to the City Council's generosity in the past budget cycle, approximately \$50,000 for community art grants were re-instituted. In that, the Scottsdale Symphony was the second largest beneficiary of the funds receiving over half of the allotted grant money.

Attorney Pennartz confirmed for Councilman Littlefield that funding associated with the contract is determined annually during the city's budget cycle.

Councilwoman Lukas stated her support of the Cultural Council and their work on behalf of the city.

Vice Mayor Ortega pointed out that there is not another organization that is in place to conduct the same type of services for the city.

Mayor Manross explained that the Cultural Council is scrutinized monthly. She stated her belief that the organization is a terrific asset to the city.

Councilman Ecton commented that some people like art and cultural programs while others do not. He pointed out that art is the backbone of society and will continue to be so. He explained that he isn't concerned that the contract is for five years since he felt it is a bargain. He pointed out that the organization is contributing the majority of the money for their budget.

Councilman Silverman pointed out that the city might be depending on the Cultural Council even more in the future due to the city's intention of opening up another museum.

Councilman Littlefield explained that the only problem he has with the contract is that the Cultural Council is a sole source provider. Although it gives the appearance of being outsourced, it is not really outsourced due to the lack of alternatives. He pointed out that the contract includes a termination clause

allowing termination with a 180-day notice without cause. He stressed that the contract itself doesn't commit the city to any funding.

Councilman O'Hearn explained that the current state of the economy and the comfortable relationship the city has with the Cultural Council should motivate the City Council to support the extension of the contract.

COUNCILWOMAN LUKAS MOVED TO **AUTHORIZE** THE EXTENSION OF THE AMENDED AND RESTATED MANAGEMENT SERVICES AGREEMENT, CONTRACT #970044, BETWEEN THE CITY OF SCOTTSDALE AND THE SCOTTSDALE CULTURAL COUNCIL. VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

18. Consideration of Downtown Scottsdale Partnership funding request.

Request: As requested by a Council member, consideration of a request by Downtown Scottsdale Partnership (DSP) for the City to provide \$35,000 of additional operating funds for 2002, authorize \$59,500 in EMSD assessments for a Special Events Production fund and for Council to decide whether to restore, from EMSD assessments, funds provided from the City's general funds in 1997 to create the EMSD and thus release DSP from an obligation use EMSD funds to repay these funds to the general fund. Resolution No. 6213 is attached for Council's use in authorizing the funding and providing the necessary direction to comply with all or a portion of these requests.

Staff Contact(s): David Roderique, Economic Development Department, General Manager, 480-312-7601, droderique@ci.scottsdale.az.us; Laurel W. Edgar, Economic Development Department, Revitalization Manager, 480-312-7313, ledgar@ci.scottsdale.az.us

Laurel Edgar presented a brief slide presentation that has been outlined below.

Downtown Scottsdale Partnership's Request for Additional Funding for Downtown EMSD Services

Per Request by DSP and Council -
Authorize Resolution No. 6213, approving:

- An addition to the 2002 DSP Management Contract amount for \$35,000 or a smaller amount and designate where those funds are to come from.
- The release of all or a portion the \$99,813.15 obligation of EMSD to repay the General Fund account for the original creation expenses.
- The use of all or a smaller portion of the \$59,500 EMSD assessment funds being held for the Special Events Promotion fund.

Enhanced Municipal Services District No. 2

What is an Enhanced Municipal Services District (EMSD)?

- A tool authorized by Arizona law that allows for an enhanced level of services (marketing and promotion, maintenance, security, and/or parking management) within a specified area of a designated Redevelopment Area through additional property tax assessments within the District boundaries.

EMSD No. 2 Mission/Goals

Provide coordinated marketing and promotional tools for Downtown with the costs being shared by property owners and businesses in the area in order to remain competitive.

Background

- \$99,813 of expenses to create EMSD in 1996/97 were paid out of the General Fund
- DSP agreed that EMSD funds would be used to repay funds during the 1st 5 years
- \$59,500 of EMSD funds were saved up for the repayment
- In July, 2002 Council split EMSD annual budget with \$97,000 to DSP for management of EMSD and \$500,000 to C-K for marketing EMSD

APPROVED EMSD BUDGET 2002-2003

APPROVED EMSD BUDGET 2002-2003	
REVENUES	
– Assessments	\$535,000
– City Contribution (Estimated)	<u>\$100,000</u>
Total Revenues	\$635,000
EXPENDITURES	
– Uncollected Assessments (4.0%)	\$ 21,400
– Management/Operations/Special Events Coordination	\$ 97,000
– Annual EMSD Update	\$ 15,000
– Marketing/Promotion/Public Relations/Special Events	<u>\$500,000</u>
Total Expenditures	\$633,400
Net Income	\$1,600
EMSD – Downtown Scottsdale Partnership	Economic Vitality Department

DSP's Request

- Grant DSP \$35,000 in additional funding for management of the EMSD for 2002/2003
- Relief from DSP and the EMSD fund from an obligation to reimburse the General Fund for the \$99,813.15 in original creation expenses
- Use of \$59,500 of EMSD funds that had been saved up for a Special Events Production Fund

Tonight's Options for EMSD

The City Council has the following options:

- Approve an addition to the 2002 DSP Management Contract amount for \$35,000 or a smaller amount and designate where those funds are to come from.
- Approve the release of all or a portion the \$99,813.15 obligation to restore to the General Fund the original EMSD creation expenses.
- Approve the use of all or a smaller portion of the \$59,500 EMSD assessment funds being held for the Special Events Promotion fund.

Based on Council direction, adopt Resolution No. 6213.

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Mayor Manross opened public testimony.

Carroll Huntress, 4005 N. Scottsdale Road, spoke as the president of the Downtown Scottsdale Partnership. The group is funded with \$97,000 from Council's action last July although it does not cover the expenses for the organization. He encouraged Council to support the importance of the DSP to the Downtown District. He explained that many people have spent years trying to unify the downtown area through dedication and hard work. Through the many challenges presented, business owners chose to tax themselves to move the organization forward. He stated his belief that Council's decision in July of 2002 displayed a lack of concern and objectivity to the needs of the managing organization. He pointed out that the visitor's center is still open although the newsletter isn't being produced due to a lack of funding. He urged Council to treat the organization as a valuable organization for the downtown area.

Michael Fernandez, 4338 N. Scottsdale Road, explained that he is the owner of Pottery Paradise located on Scottsdale Road which has been in business 52 years. He stated his opposition to the DSP's request for additional funding for the following reasons: 1) he felt the area grant money is not spent equally among the six districts that contribute into the fund, 2) he opposed the Executive Director's raise since the DSP feels they do not have enough funding, 3) he felt the organization should cut back on expenses, and 4) he felt the renewal of the building leases should have been handled differently. He expressed his belief that things have not changed in the way the DSP operates.

Dwayne Richard, 7044 E. 5th Avenue, spoke as the Executive Director of the DSP. He explained that the DSP follows a process that was set up upon the organization's formation to recognize districts. The process must be followed in order for an organization to reach the status of receiving area grants. To date, he explained that one district has never applied, while a second made various initial attempts that were all withdrawn.

Vice Mayor Ortega questioned the cost of the farmer's market since it seems like an activity that strengthens the area. Mr. Richard explained that the farmer's market was used last year as a way to strengthen the downtown by spending over \$12,000 in advertising to promote the event. This year, the event has been part of the overall marketing campaign and has not received specific attention since it is now an established event.

In response to additional questions, Mr. Richard explained that there are currently four districts that are recognized as viable retail districts in the downtown. They include Old Town, Main Street, Marshall Way, and the Fifth Avenue Area. The only one that is vague as far as its boundary is the Fifth Avenue area since it has always included the areas around Fifth Avenue rather than just the street itself. One of the concerns that the retailers had when the DSP was being considered is that the individual districts

would lose their identities; therefore, a compromise was made to set aside a portion of the funds aside for area grants.

Councilman Silverman questioned the \$3,000 expenditure on the partnership budget overview under salaries. Mr. Richard explained that the money was used to pay the marketing director's salary for the two-week period she was with the organization.

Marilynn Atkinson, 3957 N. Brown Avenue, spoke on behalf of some of the downtown constituents. She explained that they feel the money the organization owes the city from the formation of the district should be forgiven. If Council grants any additional funds for the DSP, she would like to see the money earmarked for an all-downtown brochure. She pointed out that there is not currently a program for spring training and stressed the importance of the event on local businesses. She explained that since the \$97,000 was given to DSP, there has not been an approved budget because the organization is running at a deficit. The constituency felt that a budget should have been compiled at the time the money was allocated to DSP. She noted that the visitor's center is not open on weekends and is closed between Christmas and New Years. She felt the office and visitor's center hours should correspond to when tourists are likely to require assistance. She questioned DSP's practice of only requiring one signature on their checks and stated her belief that it is time to shut down the DSP and regroup.

Mayor Manross closed public testimony. Two additional comment cards were received in favor of item 18 while one additional comment card was received opposing item 18 from residents not wishing to speak.

In response to questions from Vice Mayor Ortega, Mr. Huntress explained that the DSP have had organizations throughout the city request help in funding events. He pointed out one instant when the organization provided funding to bring the "Great Race" into the city. He noted that it has been very difficult for the DSP to obtain corporate sponsorships due to the difficult economy. He explained that the organization is currently without funding for current events. In the past, \$24,000 was budgeted for special events. He explained that funding for the downtown brochure is still in the budget although the monthly newsletter was eliminated.

Mr. Huntress confirmed for Vice Mayor Ortega that the organization feels it is extremely important to have a presence on the street. He pointed out that the DSP would love to be able to keep the visitor's center open eight hours per day, 7 days per week. Although the volunteer program is strong, no one wants to man the facility at certain times.

Ms. Edgar clarified for Council that staff tried to create a resolution that work for any scenario that Council wished to pursue. She pointed out that Resolution 6213 was included in Council's packets for review. The resolution allows for minor adjustments once Council has decided on a particular course of action.

Attorney Pennartz explained that the intent is not to require the City Council to go through the detailed blanks in the document. Council would make a monetary decision after which staff would go through and make the resolution fit Council's decision.

Vice Mayor Ortega explained that the city fronted some money to create the organization, which has been in business for over 5 years. He explained that the group has taxed themselves over \$2.5 million. Over that period of time, the city has contributed approximately \$50,000 per year, or approximately a quarter of a million dollars. He explained his belief that the downtown constituency have been very good stewards of their own taxation.

VICE MAYOR ORTEGA MOVED TO **ADOPT** RESOLUTION 6213 AND **APPROVE** USE OF THE \$59,500 EMSD ASSESSMENT FUNDS BY THE EMSD TO BE ALLOCATED \$30,000 TO SPECIAL EVENT FUNDING AND \$29,500 TO BE USED FOR DSP OPERATING EXPENSES. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH FAILED 3/4 (D.O., W.E., R.L., T.S.)

Councilwoman Lukas explained her belief that it is time to help out the downtown area. She felt the group represents the downtown and is a valuable organization. She pointed out that everyone is aware of the difficult economic times and should acknowledge that the DSP is having difficulty acquiring corporate funding.

In response to questions from Councilman Littlefield, Ms. Edgar explained that the \$59,500 is Enhanced Municipal Services District funds that must be used for EMSD items. She confirmed that repayment to the city would be an acceptable use.

Councilman O'Hearn clarified that there was an agreement to reimburse the city for the funds it fronted to create the DSP. Furthermore, there is approximately \$60,000 of EMSD funds that are being held and can be distributed in the following three ways: 1) to DSP management, 2) repay the taxpayers, or 3) for special events. He stated his belief that there is an obligation to pay back the money owed the city although he is willing to forgive a portion of the debt.

Mayor Manross expressed her belief that every dollar is important. She explained her opinion that the city has not supported the DSP's efforts enough over the years. She pointed out that the organization was taken back by Council's decision to split the responsibilities up between another firm and the DSP. She felt it has been especially difficult ever since.

Councilman Silverman reminded everyone that Council increased the city's contribution from \$50,000 to \$100,000 in July.

Councilman Ecton expressed his opinion that Council is ignoring some of the basic issues in forgiving what he called mismanagement of funds and the organization itself. He pointed out that Council voted in July to grant \$97,000 to the support the downtown. The DSP was given the budget, which they ignored. He stated that they decided to spend more money than they had allocated to them and now are asking for more.

Councilman Littlefield explained that he didn't feel the city was getting their money's worth in the first five years of DSP's existence. He stressed that he didn't like the product or the level of personal bickering in the downtown. Nevertheless, he explained that he was persuaded that the EMSD needed to be preserved. He explained that his vote to separate the marketing effort has not turned out as he had hoped. He stressed that he still doesn't like the product and believes the level of bickering has increased. He compared the Convention and Visitor's Center with the EMSD indicating that the two organizations are as different as night and day. The Convention and Visitor's Center product is better, advertising is better, and the organization operates effectively.

COUNCILMAN O'HEARN MOVED TO **ADOPT** RESOLUTION 6213 ALLOCATING \$30,000 OF THE \$59,500 IN EMSD ASSESSMENTS TO THE CITY'S GENERAL FUND WITH THE REMAINING \$29,500 TO BE ALLOCATED TO DSP FOR SPECIAL EVENT FUNDING, AND **APPROVE** THE RELEASE OF THE \$99,813.15 OBLIGATION OF EMSD TO REPAY THE

GENERAL FUND ACCOUNT FOR THE ORIGINAL CREATION EXPENSES. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 4/3 (C.L., M.M., D.O.)

Public Comment - None

City Manager's Report - None

Mayor and Council Items - None

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 9:16 P.M.

SUBMITTED BY:

Ann Eyerly, Council Recorder

REVIEWED BY:

Carolyn Jagger, Deputy City Clerk

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 21st day of January 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this _____ day of January 2003.

CAROLYN JAGGER
Deputy City Clerk